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6 NEC ELECTRONICS AMERICA, INC.

7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10
11 DATAPLEX, INC., on behalf of itself and all
others similarly situated,

Case No. C-06-6491 JCS

12 Plaintiff,

13 v.

14 ALLIANCE SEMICONDUCTOR
15 CORPORATION; CYPRESS
SEMICONDUCTOR CORPORATION;
16 ETRON TECHNOLOGY, INC.; ETRON
TECHNOLOGY AMERICA, INC.;
17 HITACHI, LTD.; HYNIX
SEMICONDUCTOR, INC.; HYNIX
18 SEMICONDUCTOR AMERICA, INC.;
MICRON TECHNOLOGY, INC.; NEC
19 ELECTRONICS CORPORATION; NEC
ELECTRONICS AMERICA, INC.;
20 SAMSUNG ELECTRONICS COMPANY,
LTD.; SAMSUNG ELECTRONICS
21 AMERICA; TOSHIBA CORPORATION;
TOSHIBA AMERICA ELECTRONIC
22 COMPONENTS; WINBOND
ELECTRONICS CORPORATION;
23 WINBOND ELECTRONICS
CORPORATION AMERICA,

**STIPULATION RE RESPONSE TO
COMPLAINT**

24 Defendants.
25

26 WHEREAS Plaintiff filed a Complaint in the above-captioned case on or about October
27 17, 2006;
28

1 WHEREAS Plaintiff alleges price fixing by manufacturers of Static Random Access
2 Memory ("SRAM");

3 WHEREAS more than thirty complaints have been filed to date in federal district courts
4 throughout the United States by plaintiffs bringing class actions on behalf of either direct or
5 indirect purchasers alleging price fixing by manufacturers of SRAM (collectively, "the SRAM
6 Cases");

7 WHEREAS there is a motion pending before the Judicial Panel on Multidistrict Litigation
8 to transfer the SRAM cases to the Northern District of California for coordinated or consolidated
9 pretrial proceedings pursuant to 28 U.S.C. § 1407;

10 WHEREAS the parties anticipate the possibility of Consolidated Amended Complaints in
11 the SRAM Cases;

12 WHEREAS the parties have agreed that an orderly schedule for any response to the
13 pleadings in the SRAM Cases would be more efficient for the parties and for the Court;

14 WHEREAS Plaintiff agrees that the deadline for NEC Electronics America, Inc. ("NEC
15 America") to respond to the Complaint shall be extended until the earlier of the following two
16 dates: (1) thirty days after the filing of a Consolidated Amended Complaint in the SRAM Cases;
17 or (2) thirty days after Plaintiff provides written notice to NEC America that it does not intend to
18 file a Consolidated Amended Complaint, provided that such notice may be given only at or after
19 the initial case management conference in the MDL transferee court in this case;

20 WHEREAS Plaintiff further agrees that this extension is available, without further
21 stipulation with counsel for Plaintiff, to all named Defendants who notify Plaintiff in writing of
22 their intention to join this extension;

23 WHEREAS Plaintiff and NEC America (and any other named Defendants who provide
24 notice of their intention to join this extension pursuant to the preceding paragraph) agree that each
25 such defense counsel shall accept service on behalf of the Defendant that provided notice of its
26 intention to join this extension of all complaints in the above-captioned matter, including any
27 amended or consolidated complaints, and further, that such Defendant shall not contest the
28 sufficiency of process or service of process. This Stipulation does not constitute a waiver of any

1 other defense, including but not limited to, the defense of lack of personal or subject matter
2 jurisdiction or improper venue.

3 WHEREAS Plaintiff and NEC America agree that notwithstanding the above paragraphs,
4 should any Defendant to whom this extension applies respond to any complaint in another SRAM
5 case filed in another United States District Court prior to the date contemplated by this Stipulation,
6 except pursuant to Court Order, then such defendant shall make a simultaneous response to the
7 complaint in the above-captioned matter.

8 PLAINTIFF AND NEC AMERICA, BY AND THROUGH THEIR RESPECTIVE
9 COUNSEL OF RECORD, HEREBY STIPULATE AS FOLLOWS:

10 1. The deadline for NEC America to respond to the Complaint shall be extended until
11 the earlier of the following two dates: (1) thirty days after the filing of a Consolidated Amended
12 Complaint in the SRAM Cases; or (2) thirty days after Plaintiff provides written notice to NEC
13 America that it does not intend to file a Consolidated Amended Complaint, provided that such
14 notice may be given only at or after the initial case management conference in the MDL transferee
15 court in this case.

16 2. This extension is available, without further stipulation with counsel for plaintiff, to
17 all named Defendants who notify Plaintiff in writing of their intention to join this extension.

18 3. NEC America (and any other named Defendants who provide notice of their
19 intention to join this extension pursuant to the preceding paragraph) agree that each such defense
20 counsel shall accept service on behalf of the Defendant that provided notice of its intention to join
21 this extension of all complaints in the above-captioned matter, including any amended or
22 consolidated complaints, and further, that such Defendant shall not contest the sufficiency of
23 process or service of process. This Stipulation does not constitute a waiver of any other defense,
24 including but not limited to, the defense of lack of personal or subject matter jurisdiction or
25 improper venue.

26 4. Plaintiff and NEC America agree that notwithstanding the above paragraphs,
27 should any Defendant to whom this extension applies, except pursuant to Court Order, respond to
28 any complaint in another SRAM case filed in another United States District Court prior to the date

1 contemplated by this Stipulation, then such Defendant shall make a simultaneous response to the
2 complaint in the above-captioned matter.

3 IT IS SO STIPULATED.

4 Dated: November 20, 2006

THELEN REID & PRIEST LLP

6 By

Paul R. Griffin
Paul R. Griffin

8 Attorneys for Defendant
9 NEC ELECTRONICS AMERICA, INC.

10 Dated: November 17, 2006

PEARSON, SOTER, WARSHAW & PENNY, LLP

12 By

Daniel L. Warshaw
Daniel L. Warshaw

14 Attorneys for Plaintiff DATAPLEX, INC.

16 Dated: November 21, 2006

